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In re Application of ROBERTS et al
U.S. Application No.: 09/980,758
PCT Application No.: PCT/US00/13379
Int. Filing Date: 15 May 2000
Priority Date Claimed: 14 May 1999
Attorney Docket No.: 14538A-004510US
For: METHODS FOR INCREASING PLANT
CELL PROLIFERATION BY
FUNCTIONALLY INHIBITING A PLANT
CYCLIN INHIBITOR GENE

DECISION

This is in response to applicant's "Petition to Withdraw Abandonment" filed 19 February 2003, which is being treated under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 15 May 2000, applicant filed international application PCT/US00/13379, which claimed priority of an earlier United States application filed 14 May 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 28 November 2000, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 14 November 2001.

On 13 November 2001, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 18 January 2002, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 and a replacement sequence listing must be filed.

On 27 January 2003, the DO/EO/US mailed a Notice of Abandonment, which indicated that the application is abandoned for failure to timely respond to the Notification of Missing Requirements.

On 19 February 2003, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The evidence of record is sufficient to establish that the declaration and sequence listing were originally filed on 29 April 2002. Specifically, the copy of the return postcard, which includes the declaration and sequence listing in its itemized contents and which bears a USPTO date stamp of 29 April 2002, serves as *prima facie* evidence that the declaration and sequence listing were received by the USPTO on 29 April 2002.

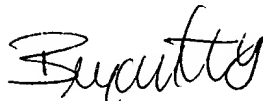
CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

The Notice of Abandonment mailed 27 January 2003 is hereby VACATED.

The application has an International Filing Date under 35 U.S.C. 363 of 15 May 2000, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 29 April 2002.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.



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